

PATENT ASSIGNMENT COVER SHEET

Electronic Version v1.1
 Stylesheet Version v1.2

EPAS ID: PAT3376842

SUBMISSION TYPE:	NEW ASSIGNMENT	
NATURE OF CONVEYANCE:	ASSIGNMENT	
CONVEYING PARTY DATA		
	Name	Execution Date
	NMT MEDICAL, INC.	04/20/2011
RECEIVING PARTY DATA		
Name:	JOSEPH F. FINN JR	
Street Address:	C/O FINN, WARNKE & GAYTON, LLP	
Internal Address:	167 WORCESTER STREET, SUITE 201	
City:	WELLESLEY HILLS	
State/Country:	MASSACHUSETTS	
Postal Code:	02481-3613	
PROPERTY NUMBERS Total: 1		
	Property Type	Number
	Application Number:	13428719
CORRESPONDENCE DATA		
Fax Number:	(610)407-0701	
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent using a fax number, if provided; if that is unsuccessful, it will be sent via US Mail.</i>		
Phone:	610-407-0700	
Email:	mfriel@ratnerprestia.com	
Correspondent Name:	RATNERPRESTIA	
Address Line 1:	1235 WESTLAKES DRIVE	
Address Line 2:	SUITE 301	
Address Line 4:	BERWYN, PENNSYLVANIA 19312	
ATTORNEY DOCKET NUMBER:	ARMT-113US3	
NAME OF SUBMITTER:	BRETT J. ROSEN, REG. NO. 56,047	
SIGNATURE:	/Brett J. Rosen/	
DATE SIGNED:	06/01/2015	
Total Attachments: 8		
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ASSIGNMENT FOR THE BENEFIT OF CREDITORS

This agreement, effective as of April 20, 2011, for an assignment for the benefit of creditors ("A/F/B/C") made by and between (a) NMT Medical, Inc. (the "Debtor") duly organized and existing under the laws of Delaware and having a place of business at 27 Wormwood Street, Boston, MA 02210, (b) Joseph F. Finn, Jr. ("Assignee") c/o Finn, Warnke & Gayton, LLP, 167 Worcester St., Suite 201, Wellesley Hills, MA 02481-3613 and (c) others who may become parties to this agreement in accordance with the terms hereof:

RECITALS

- A. Debtor has been forced by its financial circumstances to wind up its business and to liquidate and distribute its assets, and
- B. Debtor is unable to pay its creditors as its obligations become due, wishes to provide a mechanism for liquidation of its assets and distribution of the proceeds to its creditors and has determined that the most efficient and economical mechanism to accomplish this purpose is to make an assignment for the benefit of its creditors, and
- C. Assignee has agreed to accept the assignment of assets by Debtor for the benefit of its creditors, subject to the terms and conditions hereof, and
- D. Those creditors who assent to this agreement as provided below will be entitled to participate in the distribution of proceeds of assets subject to the terms and conditions hereof.

NOW, THEREFORE, Debtor and Assignee and those creditors who assent hereto, hereby agree as follows:

AGREEMENT

1. Definitions:

- 1.1. Assets: Those assets described in Section 2.1 below, as limited by Section 3 below.
- 1.2. Assenting Creditors: Those creditors who assent to this agreement as provided below.
- 1.3. Assignee: The Assignee named in the first paragraph of this A/F/B/C or any successor appointed according to the terms hereof.
- 1.4. Creditor: Any person or entity that holds a claim against Debtor that arose at the time of or before the date hereof or from a contract entered into before the date hereof.
- 1.5. Debtor: The Debtor shall mean NMT Medical, Inc.

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1.6. Priority Creditors: The United States of America, to the extent entitled to priority under 31 U.S.C., Section 3713 and those creditors who would be entitled to priority under Section 507(a) of the United States Bankruptcy Code in effect on the date hereof, as modified in Section 5.10 below.

1.7. Secured Creditors: Those creditors that hold liens on the Assets that are valid, perfected and enforceable against the Assignee, to the extent of the value of their collateral.

2. Assignment: The Debtor hereby grants, bargains, sells, conveys, assigns and transfers to the Assignee all of its real and personal property wherever situated, either within or without the Commonwealth of Massachusetts, including, without limitation:

2.1. inventory including without limitation all merchandise, raw materials, work in process, finished goods, and other tangible personal property held for sale or lease or furnished or to be furnished under contracts of service or consumed in Debtor's business;

2.2. accounts receivable, subject to any valid, perfected and enforceable liens or previously sold to a third party factoring corporation, including without limitation all accounts, contract rights, and all other debts, obligations and liabilities in whatever form, owing to Debtor from any person, firm or corporation or any other legal entity, received by or belonging or owing to Debtor, for goods sold, leased, licensed, assigned or otherwise disposed of by it or for services rendered by it, or however otherwise same may have been established or created, all guaranties, securities and other supporting obligations therefore, all right, title and interest of Debtor in any merchandise or services which gave rise thereto, including the rights of reclamation and stoppage in transit and all rights of an unpaid seller of merchandise or services;

2.3. equipment including without limitation all furniture, fixtures, machinery, equipment, molds, tools, dies, motor vehicles and other goods;

2.4. notes, bills, drafts, acceptances, instruments, documents, chattel paper, choses in action and general intangibles;

2.5. claims of every nature, contingent or non-contingent, including without limitation those arising from tort, contract, breach of duty, rights to tax refunds and rights to seek damages, specific performance or to exercise set-off;

2.6. cash and deposit accounts;

2.7. securities, securities accounts, rights under financial contracts and other investment property;

2.8. letter of credit rights;

2.9. real property and leasehold interests;

2.10. contracts and insurance policies;

2.11. intellectual property, including without limitation know how, trade secrets, licenses, franchises, customer lists, patents, trademarks, good will, copyrights (both registered and unregistered), corporate name and all product names;

2.12. all products and proceeds, offspring, rent or profits from any of the foregoing including without limitation all proceeds of credit, fire or other insurance;

2.13. all books and records; and

2.14. any and all other legal or equitable interests in property of any kind.

3. Limitations. The Assets described above shall be subject to any security interests, mortgages or liens that are valid, perfected and enforceable against the Assignee

4. Powers and Duties of Assignee: The Assignee, in all instances in the exercise of his reasonable discretion, shall have the following powers and duties:

4.1. To hold the Assets in trust for the benefit of Assenting, Priority and Secured Creditors.

4.2. To manage, sell, lease, mortgage or pledge the Assets for such consideration and on such terms and conditions and to operate the business of the Debtor or any of its subsidiaries as he deems appropriate, to conduct an orderly liquidation of the Assets and to realize their reasonable liquidation value.

4.3. To incur and pay the actual and necessary costs of managing, operating, preserving, liquidating and distributing the Assets, including without limitation, reasonable wages, salaries, commissions, professional fees, rents, insurance premiums, maintenance charges, supplies, utilities, taxes and reasonable compensation as previously discussed with the debtor, for his services as Assignee but in no event to exceed the maximum amount of compensation which would be permitted to a Chapter 7 trustee in bankruptcy administering the same assets as the Assignee.

4.4. To institute or defend suits, legal or equitable proceedings incident to collection, liquidation and distribution of the assets.

4.5. To execute and deliver deeds, bills of sale or other instruments of transfer or conveyance.

4.6. To deposit any funds of this A/F/B/C in any bank or trust company, and entrust to such bank or trust company, or to a safe deposit company for safekeeping, any of the securities, monies, documents and papers belonging to or relating to the Assignee and to delegate to any other person or persons, as he may determine, the power to deposit, withdraw and draw checks on any funds of the A/F/B/C.

4.7. To distribute all proceeds received or realized by him under this A/F/B/C, and thereafter to terminate this A/F/B/C by a written declaration to that effect signed by him and thereupon all further duties, liabilities and obligations of the Assignee hereunder shall cease and this A/F/B/C shall be at an end.

4.8. Notwithstanding any other provisions herein contained, to receive and hold the Assets and any other property, whether real or personal received by him hereunder, or any of the same, and to act hereunder, if he should so desire, in his name, or in the name or names of any nominee or nominees designated by him, for so long as he, in his sole discretion may determine, and in such manner as not to give notice that such property is affected by this A/F/B/C. The Assignee hereby agrees, with respect to any property to be administered hereunder and held in his name to make or cause to be made, any and all transfers and conveyances necessary to vest the title to same in any successor Assignees hereunder or their nominee or nominees.

4.9. To construe any of the provisions of this A/F/B/C and to act on any such construction, and his construction of the same and any action taken in good faith pursuant thereto shall be final and conclusive on all parties in interest.

4.10a. To refuse to accept, to reassign or to abandon any Assets which the Assignee believes would not be beneficial to this A/F/B/C.

4.10b. To take any and all actions as the Assignee, as delegee and authorized representative of the Debtor, deems advisable with respect to any employee benefit plans maintained by the Debtor, including the termination or amendment of any or all of said plans.

4.11. The Assignee may resign at any time by delivery of a resignation in writing to the Debtor and to the then Assenting Creditors and may be removed at any time by a writing or writings signed by no less than two-thirds in number and amount of the then Assenting Creditors. In such case, a successor Assignee may be appointed by the Debtor with the concurrence of a majority in amount of the then Assenting Creditors, or if the Debtor does not or is unable to so act within a reasonable amount of time after such notice by the Assignee, then a successor Assignee may be appointed by a majority of amount of the then Assenting Creditors.

4.12. The Assignee shall be entitled to indemnity against any and all liability either in contract or tort, which he may incur or to which he may be subject, out of the Assets.

4.13. The Assignee shall not be liable for any error of judgment or for any action or failure to act, done or suffered or for any decision made in good faith.

4.14. Any act or thing done by the Assignee, or by the duly authorized agents or representatives of the Assignee, shall, as to all persons dealing with such Assignee or such duly authorized agents and representatives of the Assignee, be conclusively deemed to be within the purposes of this A/F/B/C and within the powers of the Assignee. No person dealing with the Assignee or with any duly authorized agent or representative of the Assignee shall be bound to see to the application of any funds or property passing into his hands or control.

4.15. Any certificate signed by the Assignee setting forth as facts any matters affecting the A/F/B/C or the powers and authority of the Assignee under this A/F/B/C or with respect to any action taken by the Assignee or the beneficiaries, including a statement as to who is the Assignee or who are the beneficiaries shall be conclusive evidence as to the existence of the alleged facts, powers, authority or action in favor of all persons acting in reliance thereon.

4.16. The Assignee may from time to time employ and pay reasonable compensation to such counsel, accountants and other professionals as he, in his sole discretion, shall deem necessary and advisable, including without limitation, counsel and accountants formerly or currently employed by the Debtor.

4.17. Anyone contracting with the Assignee shall look only to the Assets for payment under such contract or for the payment of any mortgage, note, judgment or decree or of any money that may otherwise become due and payable by reason of the failure on the part of the Assignee to perform such contract in whole or in part, or for any other cause, and the Assignee shall not be personally liable therefore. In every written contract, note, lease, deed or mortgage which the Assignee may make, reference shall be made to this instrument. The omission of such reference, however, shall not constitute a waiver of the foregoing provisions and shall not render the Assignee personally liable.

4.18. Neither the Assignee nor any of its directors, officers, employees, agents and advisors, shall have or incur any liability to, or be subject to any right of action by, any holder of a claim against the Debtor, or any other party in interest, or any of their respective employees, agents and advisors, or any of their successors or assigns, for any act or omission after the date hereof in connection with, relating to, or arising out of, this A/F/B/C, the pursuit of confirmation of this A/F/B/C, the consummation of this A/F/B/C or the administration of this A/F/B/C or the property to be distributed under this A/F/B/C, so long as they acted in good faith and in a manner reasonably believed to be in or not opposed to the best interests of the holders of claims against the Debtor, and in all respects shall be entitled to rely reasonably upon the advice of counsel with respect to their duties and responsibilities under this A/F/B/C.

4.19. If, after paying all necessary costs and making distributions to Secured Creditors, Priority Creditors and Assenting Creditors, all claims have not been paid in full and the Assignee has unclaimed distributions or holds a sum too small to permit a cost-effective distribution to creditors, then the Assignee may donate such remaining funds to charity.

5. Right and Duties of Creditors:

5.1. A Creditor shall become an Assenting Creditor and a party to this A/F/B/C and a beneficiary hereunder by filing with the Assignee a written assent substantially in the form of Exhibit A annexed hereto within sixty days hereof or within such further time as the Assignee may grant in his discretion.

5.2. Upon the filing by a creditor of an assent and upon its acceptance by the Assignee, each such Assenting Creditor shall be deemed to have acquired a pro rata participating interest in all Assets, subject to the priorities set forth below, equal to the proportion which the

claim of such Assenting Creditor shall bear to the aggregate of the claims of all Assenting Creditors.

5.3. The submission of an assent to this A/F/B/C shall not operate as a waiver, release or suspension of any rights by way of guaranty, security or otherwise which such Assenting Creditor may have against any person other than the Debtor.

5.4. An Assenting Creditor hereby agrees that it will not institute a suit against the Debtor or any other proceeding at law or in equity or otherwise on account of any debt due and owing to such Assenting Creditor from the Debtor, nor will such Assenting Creditor transfer its claim without the written approval of the Assignee. Each Assenting Creditor accepts in lieu of its claim the rights acquired hereunder and agrees that this A/F/B/C may be pleaded as a defense or bar to any such suit or other proceeding.

5.5. The Assignee may accept as valid the amount of any claim that is reflected in the Debtor's books and records or which is otherwise supported by evidence reasonably satisfactory to the Assignee.

5.6. The Assignee may reduce any claim by the amount of any set-off to which the Debtor is entitled and by the amount of any payments received by the claimant from the Assignor that would have been preferences or fraudulent transfers under §§ 544, 547 and 548 of the Bankruptcy Code if the Assignor had filed a petition under the United States Bankruptcy Code on the date of the Agreement.

5.7. In the event of a disagreement between the Assignee and an Assenting Creditor concerning the validity, amount or priority of a claim, the Assignee and such Assenting Creditor will negotiate in good faith to attempt to resolve such dispute. Any unresolved dispute will be referred by the Assignee for final and binding arbitration, on terms and conditions to be established by the arbitrator, to an attorney selected by the Assignee who maintains an office in Boston, Massachusetts and who would qualify as a disinterested person in respect of the Debtor, the Assignee and the Creditor under the definition of "disinterested person" contained in the United States Bankruptcy Code in effect on the date hereof. All costs of arbitration shall be shared equally by the Assenting Creditor and the Assignee.

5.8. The Assignee will reduce the amount of any claim by any interest that accrues after or is unmaturing as of the date of this A/F/B/C and by any costs of collection, late fees or similar fees or charges. Claims shall be allowed in accordance with the principles applicable to claims under Chapter 7 of the United States Bankruptcy Code.

5.9. Secured Claims. The Assignee may discharge by payment any liens or security interests, to the extent that he deems it beneficial to this A/F/B/C and may otherwise pay Secured Claims at such times and in such amounts as the Assignee determines.

5.9.1. The Assignee may accept as the claim of an Assenting Creditor the claim of a Secured Creditor for the unsecured portion of any partially secured claim, the amount of such claim to be determined as provided in Paragraph 5.7.

5.10. Priority Claims will be paid at such times and in such amounts as the Assignee determines as follows:

5.10.1. First, any claims of the United States will be paid as a first priority, as required by 31 U.S.C. Section 3713,

5.10.2. Second, subject to limitations set forth in Section 4.3, costs and expenses of administering this A/F/B/C, including reasonable compensation to the Assignee and professionals engaged by the Assignee, shall be paid as a second priority, and

5.10.3 Third, as provided in Section 507(a) of the United States Bankruptcy Code.

5.11. Claims of Assenting Creditors will be paid at such times and in such amounts as the Assignee determines. Such payments shall be made pro rata to all Assenting Creditors except that the Assignee may designate for payment in full a separate class of Assenting Creditors consisting only of claims less than or reduced to an amount that the Assignee determines as reasonable and necessary for administrative convenience. If all costs of the Assignee and all claims against the Debtor have been paid in full and there remains a surplus, the Assignee shall distribute such surplus to shareholders; provided, however, if the sum remaining as a surplus is de minimus in the sole discretion of the Assignee, the Assignee shall donate such sum to a public charity of his choosing.

6. Miscellaneous:

6.1. Notice. Any notices hereunder shall be sufficient if in writing and sent by United States mail, certified or registered mail, return receipt requested, postage prepaid to the Debtor or Assignee, Mr. Joseph F. Finn, Jr., C.P.A. c/o Finn, Warnke & Gayton LLP, 167 Worcester St., Suite 201, Wellesley Hills, MA 02481-3613 Fax: (781) 237-2355; and to Assenting Creditors by United States mail, postage pre-paid at the address shown on the Assent forms submitted by them.

6.2. This A/F/B/C is to be construed as a Massachusetts contract, takes effect as a sealed instrument, sets forth the entire agreement among the parties, is binding upon and inures to the benefit of the parties hereto and their respective successors and assigns and may be canceled, modified or amended only by a written instrument executed by each of the parties hereto. Any waiver in one instance shall not be deemed to be a waiver of any other.

6.3. The captions herein have been inserted for convenience only, do not form a part of this A/F/B/C and shall not be utilized in its interpretation.

6.4. The Debtor does hereby constitute the Assignee and his successors, the attorney and attorneys in fact of said Debtor, irrevocably and coupled with an interest, with power of substitution in the name of the Debtor to take any act necessary or proper to the exercise of his duties hereunder.

6.5. The Debtor will execute and deliver any additional or confirmatory assignments, bills of sale, deeds and other documents and will take any additional actions which the Assignee determines may be necessary to perfect the transfer of the Assets to or by him.

IN WITNESS WHEREOF the Debtor and the Assignee have set their hands and seals as of the day and year first above written.

NMT MEDICAL, INC.

By: 

Title: President / CEO

ASSIGNEE:

By: 

Assignee: Joseph F. Finn, Jr.